

## Department of the Navy, DoD

## § 701.62

believe that the subject of the investigation or proceeding is unaware of its pendency, and the disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, DON activities may, during only such times as that circumstance continues, treat the records or information as not subject to the FOIA. In such situation, the response to the requester will state that no records were found.

(ii) Whenever informant records maintained by a criminal law enforcement organization within a DON activities under the informant's name or personal identifier are requested by a third party using the informant's name or personal identifier, the DON activity may treat the records as not subject to the FOIA, unless the informant's status as an informant has been officially confirmed. If it is determined that the records are not subject to 5 U.S.C. 552(b)(7), the response to the requester will state that no records were found.

(iii) DON activities considering invoking an exclusion should first consult with the DOJ's Office of Information and Privacy.

(h) 5 U.S.C. 552(b)(8): Those contained in or related to examination, operation or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(i) 5 U.S.C. 552(b)(9): Those containing geological and geophysical information and data (including maps) concerning wells.

336, 40 FR 49111); and the Regulations of the Administrative Committee of the Federal Register (1 CFR chaps. I and II) by delineating responsibilities and prescribing requirements, policies, criteria, and procedures applicable to:

(a) Publishing the following Department of the Navy documents in the FEDERAL REGISTER:

(1) Certain classes of regulatory, organizational policy, substantive, and procedural documents required to be published for the guidance of the public;

(2) Certain classes of proposed regulatory documents required to be published for public comment prior to issuance; and

(3) Certain public notices required by law or regulation to be published;

(b) Making available, for public inspection and copying, certain classes of documents having precedential effect on decisions concerning members of the public;

(c) Maintaining current indexes of documents having precedential effect on decisions concerning members of the public, and publishing such indexes or making them available by other means;

(d) Receiving and considering petitions of members of the public for the issuance, revision, or cancellation of regulatory documents of some classes; and

(e) Distributing the FEDERAL REGISTER for official use within the Department of the Navy.

### § 701.62 Scope and applicability.

This subpart prescribes actions to be executed by, or at the direction of, Navy Department (as defined in § 700.104c of this chapter) components and specified headquarters activities for apprising members of the public of Department of the Navy regulations, policies, substantive and procedural rules, and decisions which may affect them, and for enabling members of the public to participate in Department of the Navy rulemaking processes in matters of substantial and direct concern to the public. This subpart complements subpart A, which implements Navy-wide requirements for furnishing documents to members of the the public upon request. That a document may

### Subpart E—Indexing, Public Inspection, and Federal Register Publication of Department of the Navy Directives and Other Documents Affecting the Public

SOURCE: 65 FR 24635, Apr. 27, 2000, unless otherwise noted.

#### 701.61 Purpose.

This subpart implements 5 U.S.C. 552(a) (1) and (2) and provisions of Department of Defense Directive 5400.7 May 13, 1988 (32 CFR part 286, 55 FR 53104); Department of Defense Directive 5400.9, December 23, 1974 (32 CFR part

be published or indexed and made available for public inspection and copying under this instruction does not affect the possible requirement under subpart A for producing it for examination, or furnishing a copy, in response to a request made under that subpart.

**§ 701.63 Policy.**

In accordance with the spirit and intent of 5 U.S.C. 552, the public has the right to maximum information concerning the organization and functions of the Department of the Navy. This includes information on the policies and the substantive and procedural rules used by the Department of the Navy in its dealings with the public. In accordance with Department of Defense policy described in 32 CFR part 336, 40 FR 4911, moreover, the public is encouraged to participate in Department of the Navy rulemaking when the proposed rule would substantially and directly affect the public.

**§ 701.64 Publication of adopted regulatory documents for the guidance of the public.**

(a) *Classes of documents to be published.* Subject to the provisions of 5 U.S.C. 552(b) which exempt specified matters from requirements for release to the public [see subpart B of this part], the classes of Department of the Navy documents required to be published on a current basis in the FEDERAL REGISTER are listed below.

(1) *Naval organization and points of contact*—description of the central and field organization of the Department of the Navy and the locations at which, the members or employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(2) *Methods and procedures for business with public*—statements of the general course and methods by which Department of the Navy functions affecting members of the public are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) *Procedural rules and forms*—rules of procedure for functions affecting members of the public, descriptions of forms available or the places at which forms may be obtained, and instructions as to

the scope and contents of all papers, reports, or examinations required to be submitted under such rules of procedures; and

(4) *Substantive rules and policies*—substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Department of the Navy. Such rules are commonly contained in directives, manuals, and memorandums.

(i) *“General applicability” defined.* The definition prescribed in 1 CFR 1.1 pertains to the classes of documents contemplated in § 701.64(b) (4).

(ii) *Internal personnel rules and internal practices.* In addition to other exemptions listed in 5 U.S.C. 552(b) and subpart B of this part, particular attention is directed to the exemption pertaining to internal personnel rules and internal practices.

(iii) *Local regulations.* It is unnecessary to publish in the FEDERAL REGISTER a regulation which is essentially local in scope or application, such as a directive issued by a base commander in the implementation of his responsibility and authority under subpart G of part 700 of this title for guarding the security of the installation or controlling the access and conduct of visitors or tradesmen. However, such publication may be authorized under extraordinary circumstances, as determined by the Chief of Naval Operations or the Commandant of the Marine Corps, as appropriate, with the concurrence of the Judge Advocate General.

(iv) *Incorporation by reference.* with the approval of the Director of the Federal Register given in the limited instances authorized in 1 CFR Part 51 and 32 CFR 336.5(c), the requirement for publication in the FEDERAL REGISTER may be satisfied by reference in the FEDERAL REGISTER to other publications containing the information which must otherwise be published in the FEDERAL REGISTER. In general, matters eligible for incorporation by reference are restricted to materials in the nature of published data, criteria, standards, specifications, techniques, illustrations, or other published information which are reasonably available to members of the class affected.